

EXHIBIT QQ

In the Matter Of:

LYNNE FREEMAN vs

TRACY DEEBS-ELKENANEY

LYNNE FREEMAN

March 24, 2023



1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 Civil Action No. 1:22-cv-02435-LLS-SN

4 LYNNE FREEMAN, an individual,
5 Plaintiff,

6 -vs-

7 TRACY DEEBS-ELKENANEY P/K/A
8 TRACY WOLFF, an individual,
9 EMILY SYLVAN KIM, an
10 individual, PROSPECT AGENCY,
11 LLC, a New Jersey limited
12 liability company, ENTANGLED
13 PUBLISHING, LLC, a Delaware
14 limited liability company,
15 HOLTZBRINCK PUBLISHERS, LLC
16 D/B/A MACMILLAN, a New York
17 limited liability company, and
18 UNIVERSAL CITY STUDIOS, LLC, a
19 Delaware limited liability
20 company,

21 Defendants.

22 _____/
23
24 DEPOSITION OF
25 Lynne Freeman
CONFIDENTIAL - ATTORNEYS' EYES ONLY

Friday, March 24, 2023
9:04 a.m. - 6:19 p.m.
Pacific Time

Remote Location
Via Zoom Videoconference
All Parties Remote

STENOGRAPHICALLY REPORTED BY:
ERICA FIELD, RPR
JOB NO. 886198

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6 Holtzbrinck Publishers, LLC d/b/a Macmillan,
7 and Universal City Studios LLC:

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19 ALSO PRESENT:

20 Tracy Wolff

21 Elizabeth Pelletier

22 VIDEOGRAPHER:

23 Adriel Olvera

24 Isaac Orihuela

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1 Thereupon,

2 the proceedings began at 9:04 a.m.:

3 THE VIDEOGRAPHER: We are now on
4 the record.

5 Today's date is March 24, 2023,
6 and the time is 9:04 a.m. Pacific
7 Time.

8 This is the video deposition of
9 Lynne Freeman in the matter of Lynne
10 Freeman v. Tracy Deebbs-Elkenaney
11 P/K/A Tracy Wolff, et al., filed in
12 the United States District Court,
13 Southern District of New York, Case
14 No. 1:22-cv-02435-LLS-SN.

15 This deposition is taking place
16 via web videoconference with all
17 participants attending remotely.

18 Counsel on the conference,
19 please identify yourselves and state
20 whom you represent, beginning with the
21 questioning attorney.

22 MS. WOLFF: It's Nancy Wolff of
23 Cowan, DeBaets, Abrahams & Sheppard,
24 and I represent defendants Entangled,
25 Macmillan, Universal, and Tracy Deebbs

1 Wolff.

2 MS. COLE: My name is CeCe Cole
3 also from the law firm of Cowan,
4 DeBaets, Abrahams & Sheppard on behalf
5 of defendants Entangled Publishing,
6 Universal, Macmillan, and
7 Tracy Deebs-Elkenaney.

8 MR. HALPERIN: I'm Benjamin
9 Halperin, also representing those same
10 defendants and from the same law firm.
11 I'm not going to be asking any
12 questions, but I'm announcing my
13 appearance.

14 MR. KOONCE: Lance Koonce with
15 Klaris Law representing Prospect
16 Agency, LLC and Emily Sylvan Kim, and
17 with me I have Zachary Press from
18 Klaris Law as well.

19 MR. DONIGER: Stephen Doniger of
20 Doniger Burroughs representing the
21 plaintiff.

22 MR. PASSIN: And Mark Passin,
23 also on behalf of plaintiff, but I
24 will not be asking -- or be speaking
25 today.

7

1 THE VIDEOGRAPHER: Anyone else?

2 Thank you. My name is Adriel

3 Olvera. I'm the videographer

4 representing Lexitas.

5 Our court reporter today is

6 Erica Field, representing Lexitas as

7 well. The court reporter will now

8 swear in the witness.

9 Whereupon,

10 LYNNE FREEMAN,

11 having been first duly sworn or affirmed, was

12 examined and testified as follows:

13 THE WITNESS: I do.

14 DIRECT EXAMINATION

15 BY MS. WOLFF:

16 Q. Good morning, Ms. Freeman.

17 A. Good morning.

18 Q. I'm going to be -- could you just

19 please state your name for the record?

20 A. It's Lynne Freeman.

21 Q. And spell Freeman.

22 A. F-R-E-E-M-A-N.

23 Q. Have you ever been deposed before,

24 Ms. Freeman?

25 A. No.

1 beauty of the nature of it. And the aurora
2 borealis, we know that's magical too.

3 Q. I would agree.

4 So you took your notes and then
5 you -- did you write a first draft of the
6 book or an outline or what was the process?

7 A. Well -- okay. So I took my notes,
8 and I wrote about a hundred 50 pages. And I
9 sent it to two friends that I think are very,
10 very smart. And I just asked them, look, I'm
11 crazy maybe, that I think that I can write,
12 or is this interesting to you what I'm put
13 together. And I need you to be brutally
14 honest with me because I'm super busy.

15 I have a young kid at home, and
16 I'm full-time practicing law, and I'm doing
17 this at night, and I really feel excited
18 about what I'm doing, so I need you to tell
19 me what I think. And that's what I did.

20 Q. Who are your two friends?

21 A. Jennifer Holland, who is an
22 attorney, and who is very intimidating
23 because she's very smart. And then Michael
24 Garner is a guy that I've known since high
25 school, and we were in an honors -- super

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1 smart honors class together, and he's a very
2 bright guy who also writes.

3 Q. What honors class is that?

4 A. Enriched Intensive Studies
5 Institute, EISI. You had to -- that's the
6 class.

7 Q. Enriched -- Enriched --

8 A. Enriched Intensive Studies
9 Institute at West Anchorage High School back
10 in the day.

11 Q. Was that an English class or math
12 class?

13 A. No. I don't know how to describe
14 what it is. But you had to be really
15 proficient or extraordinary in some area to
16 get in the class, whether it was mathematics
17 or science. It could be art. They pick -- I
18 don't know. It might have been 10 or 15
19 students to be in it, and it was one of the
20 classes I was in with Mike. That's how I met
21 him.

22 Q. What was your proficiency?

23 A. I have no idea why they let me in
24 there. I don't know. I went and
25 interviewed. I'm somebody who took a lot of

1 what did you do?

2 A. Well, I didn't -- I didn't know if
3 I was really finished or not. But I went to
4 my smart friends, two of them that I consider
5 scary because they're much smarter than I am.
6 And they're attorneys. And I gave a draft to
7 them to read and said could you just please
8 read it and give me a critique, which they
9 were both willing to do it.

10 Q. And so they critiqued it?

11 A. Well, yeah.

12 Q. And what was the critique?

13 A. Well, what ended up happening is
14 that I didn't get a critique back. One of my
15 friends sent it to a contact of hers at
16 HarperCollins and that -- that's what
17 happened.

18 Q. Without asking you?

19 A. She told me after the fact because
20 she didn't want me to be upset, but yes.

21 Q. Okay. And do you know when that
22 took place?

23 A. Yeah. So that would have been --
24 I think it's like September of -- and I can't
25 be exact with this, but I feel like it's

1 about September of 2010.

2 Q. And how did you find out about it?

3 A. Well, she told me. She told me
4 what she had done. She's, like, look, I
5 don't want to you to be mad but I'm sending
6 this to Lucy, and I really hope that's going
7 to be okay with me. I'm, like, yes, it's
8 okay with me. I'm just -- yes. So it was
9 fine.

10 Q. And who is Lucy?

11 A. Lucy Vanderbilt. She has a
12 different title right now, but it's basically
13 she's the publishing rights director of
14 HarperCollins UK, and I think nowadays they
15 changed the title to something like
16 international rights director.

17 Q. Why did she think you might be mad
18 at her --

19 A. I thought she was doing me a
20 tremendous favor. She loved the book, and my
21 friend couldn't put it down and really
22 thought I had something exciting, and Lucy is
23 a very smart, no-nonsense person, who my
24 friend didn't even think would maybe have
25 time to read it but wanted her to see it.

1 again? I don't want to ramble.

2 Q. No. I just was wondering what was
3 the next step after it went to the publisher.
4 What happened --

5 A. So then it went to the fantasy and
6 children's editors. Yes.

7 Q. Do you know what editor that was?

8 A. I can't tell you who is who, but
9 one was Rachel Denning. And the other was
10 Emma, I think it's Kantor.

11 Q. And did these editors accept your
12 book for publication?

13 A. When you say, publication, does
14 that mean did they -- did they read it --

15 Q. No. Did they offer you a
16 publishing contact? Did they want to publish
17 the book?

18 A. No. There were other steps that
19 happened before all that comes in --

20 Q. What would those -- can you tell
21 me what happened next then after --

22 A. Sure.

23 Q. -- you went to the fantasy editor?

24 A. Sure. So I was given an e-mail to
25 see from both of those people that they liked

1 it. They loved it. It went to readers. The
2 readers loved it, and then it went to sales.
3 And during this time -- somewhere in this
4 time, I started looking for agents.

5 And your question was what all
6 happened, so then that calls for me to tell
7 you, one or both of these editors -- I can't
8 recall now. It's been a long time. They
9 gave me the name of four UK agents to contact
10 and use their names with them. And then I
11 was also, at that point, querying in the US
12 for an agent.

13 Q. So were they saying that you
14 should get an agent for what reason?

15 A. I think the idea was --

16 THE WITNESS: Go ahead. I'm
17 sorry.

18 MR. DONIGER: Sounds like it's
19 calling for speculation as to what
20 their intention was.

21 But you can answer to the extent
22 that you know.

23 A. Yeah, I am not -- nobody is making
24 me a promise that anything is getting
25 published. I don't know. But the idea was

1 that it was, you know, time. Michelle
2 suggesting that I should get an agent, and I
3 saw some communications about whether I was
4 agented.

5 Also they passed along the name of
6 four UK agents for me somewhere in this. And
7 that's when I went about the process of
8 looking for an agent --

9 BY MS. WOLFF:

10 Q. So they didn't --

11 A. -- while this is pending.

12 Q. So they didn't agree that they
13 were going to publish the manuscript as it
14 was delivered to them?

15 A. No. What they said is they were
16 taking it to sales.

17 Q. And do you know what happened when
18 they took it to sales?

19 A. I know that ultimately what I was
20 told is that sales had purchased the quota of
21 books in this genre for the year, that the
22 market was very hot with Twilight right now
23 and that the feeling was that I needed to get
24 it out as soon as I could to agents and to
25 publishers, that they felt it should get

1 for a literary agent?

2 A. I feel like it was -- I don't
3 know -- late September, early -- I don't
4 know. Sometime in that fall range. Late
5 September, early October.

6 Q. Of 2010?

7 A. Yes. Correct.

8 Q. And you did so at the suggestion
9 of individuals at HarperCollins who had said
10 you should have an agent?

11 A. They didn't speak to me directly,
12 so it would have been through Michelle
13 Bittner.

14 Q. Okay. But it was as a result of
15 her conversations with HarperCollins that it
16 was suggested to you that you look for an
17 agent?

18 A. Yes, correct.

19 Q. Did you submit inquiries to any
20 other agents before Ms. Kim?

21 A. I believe I did. I believe I --
22 yes.

23 Q. Do you recall how many?

24 A. I don't recall.

25 Q. Was it more than five?

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1 very excited.

2 Q. Understood.

3 A. Yeah.

4 Q. Let me ask a question similar to
5 what I asked before. Is it your contention
6 in this lawsuit that at the time that Ms. Kim
7 asked you to be a client of Prospect Agency
8 that she was already planning to show your
9 manuscript to Tracy Wolff for the purposes of
10 committing copyright infringement?

11 A. I don't know what her intentions
12 were.

13 Q. Do you -- is there -- is there a
14 point in time at which you do contend Emily
15 Kim was actively planning to show your
16 manuscript to Tracy Wolff for the purposes of
17 committing copyright infringement?

18 A. Well, that would be why we are in
19 this lawsuit presently right now.

20 Q. Well, you have seen documents.
21 You have heard testimony. What is your
22 belief as you sit here today as to when Emily
23 Kim allegedly starting developing a plan to
24 show your manuscript to Tracy Wolff?

25 A. I don't know when she started

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1 developing a plan to show my manuscript to
2 Tracy.

3 Q. Let me show you -- I'm going to
4 mark as Exhibit 143 a letter dated
5 February 22, 2023, from your counsel
6 CSReeder, PC to Judge Sarah Netburn.

7 Let me know when you have had a
8 chance to see -- to take a quick look at
9 that.

10 (Exhibit 143 was marked for
11 identification.)

12 A. What exhibit number is that?

13 BY MR. KOONCE:

14 Q. 143.

15 A. Okay.

16 Q. On the second page of that
17 document, there's a paragraph, Paragraph A,
18 and I will note that there's a redacted
19 sentence in this document. I elected to --
20 I'm electing to show you the redacted version
21 just because I wasn't sure who would be on
22 the call, and I don't think it's relevant to
23 the question I'm going to ask.

24 The letter says: In December of
25 2010, Kim asked plaintiff what is the coolest

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1 A. Before we entered -- I'm trying to
2 understand. Before we entered into an
3 agreement to be represented together, you're
4 asking if Emily said to me who she was going
5 to show my manuscript to?

6 Q. Or who she was not going to show
7 your manuscript to?

8 A. I don't understand the question.
9 I'm so sorry.

10 Q. That's fine.

11 Did she ever represent to you that
12 the only people she would show your
13 manuscript to were editors at publishing
14 houses and readers?

15 A. Yes.

16 Q. When did she make that
17 representation to you?

18 A. I don't recall the when of it. I
19 just recall the specificity of it.

20 Q. And what was the context for that
21 conversation with her?

22 A. My mom told me that I should be
23 getting my book registered with the copyright
24 office. You know, my mom was concerned
25 about, you know, somebody stealing the idea

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1 or copying the book, doing something with it
2 and that I should register it.

3 She had seen something on a legal
4 program. So I brought the issue up to Emily
5 about, should I register my book. That's the
6 context of how that conversation came to be.

7 Q. Okay. During the time that you
8 worked with Prospect Agency, did you ever
9 learn that Emily Kim showed your manuscript
10 to anyone other than editors and readers?

11 A. No.

12 Q. Before entering into the agency
13 agreement, did Ms. Kim make any other
14 expressed representations or promises to you?

15 A. Can you define expressed
16 representations and promises, please.

17 Q. As opposed to -- well, let me ask
18 it differently.

19 Before entering into your
20 agreement with Prospect Agency, did Ms. Kim
21 make any representations or promises to you
22 separate and apart from the writing of the
23 agreement itself?

24 A. Again, do you mind explaining
25 representations and promises? I don't

1 understand what you're asking me.

2 Q. Okay. Do you know what a promise
3 is?

4 A. Yes.

5 Q. Did Ms. Kim make any promises to
6 you before entering -- you entered into the
7 agreement other than what was in writing in
8 the agreement itself?

9 A. No.

10 MR. KOONCE: Let's -- let me
11 move -- this may have been marked at a
12 prior deposition, but I'm going to
13 remark it because I wasn't sure.

14 This is the -- we are going to
15 mark this as Exhibit 144. I apologize
16 to the other counsel if it's
17 duplicative.

18 This is the agency agreement
19 version from Prospect Agency files
20 between Prospect Agency and
21 Ms. Freeman.

22 (Exhibit 144 was marked for
23 identification.)

24 BY MR. KOONCE:

25 Q. Ms. Freeman, let me know when you

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1 the time to read every version of everything
2 I wrote. So I literally just made a best
3 guess.

4 Q. So is the first time you
5 registered anything with the copyright office
6 relating to your manuscript, after you had
7 picked up the -- picked up Crush in the
8 bookstore?

9 A. Yes.

10 Q. Did you keep working on your
11 manuscript after you eventually parted ways
12 with Prospect Agency?

13 A. Yes.

14 Q. And I take it you did not send any
15 versions of your manuscript that you worked
16 on after you parted ways with Prospect Agency
17 to Ms. Kim?

18 A. I don't recall.

19 Q. Would there have been a reason for
20 you to send her versions of your manuscript
21 after you parted ways with Prospect Agency?

22 A. Yes.

23 Q. Why -- why would you have done
24 that?

25 A. Emily reached out to me in 2015

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1 many publishers Prospect Agency sent your
2 manuscript to during the time you worked with
3 it?

4 A. I believe that the 2011 version --
5 I consider that my flagship version -- went
6 to five editors, and the other versions over
7 time went to a bunch of other editors. I
8 can't recall the totals.

9 Q. Okay. Does it surprise you to
10 learn it was over 20?

11 A. No.

12 Q. Is it your contention in this case
13 that Ms. Kim did not really submit your
14 manuscript to those publishers?

15 A. No.

16 Q. Is it your contention that she was
17 somehow working against your interests when
18 she sent those submissions to publishers on
19 your behalf?

20 A. I have no idea. I don't think so.

21 Q. Okay. But if any one of those
22 publishers had said yes, they wanted to
23 publish your manuscript, wouldn't that have
24 ruined any plan for her to hand that
25 manuscript to Tracy Wolff to use?